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PATENT & TRADEMARK OFFICE

S&H Form: (2/01)

Docket No.: 1293.1269  
119  
3/24/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Woo-sik EOM, et al.

Serial No. 09/976,277

Group Art Unit: 2652

Confirmation No. 1128

Filed: October 15, 2001

Examiner: Peter Vincent Agustin

For: RECORDING MEDIUM STORING LINK INFORMATION AND APPARATUS AND  
METHOD FOR LINKING DATA

RESPONSE TO RESTRICTION REQUIREMENT

RECEIVED

MAR 23 2004

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Technology Center 2600

Sir:

This is responsive to the Office Action mailed February 25, 2004, having a shortened period for response set to expire on March 25, 2004, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR § 1.142

The Applicants provisionally elect Group 1, claims 1-5 and 10-18, in response to the preliminary restriction requirement set forth in the Office Action. The Applicants note that according to item 2, page 2, of the Office Action, the election of Group I will result in the examination of Group III, claims 8, 9, and 22.

The Applicants note the Examiner's statement in item 2, page 2, of the Office Action that, "inventions I & III are not patentably distinct." The Applicants respectfully assert that the claims of Groups I and III are patentably distinct in that the patentability of the claims of Group I is not dependent on the patentability of the claims of Group III.

II. Applicants Traverse the Requirement

Insofar as Group II and Group IV are concerned, it is believed that claims 6, 7, 19, and 23 and claims 20 and 21 are so closely related to elected claims 1-5 and 10-18 that they should

remain in the same application. While the Examiner has cited MPEP § 806.05(h) and MPEP § 806.05(c) as supporting the finding that the claims of Groups II and IV are distinct, the Applicants respectfully submit that the Examiner has not provided sufficient reasons under MPEP § 808.02 as to why restriction is proper.

While it is noted that the Examiner has identified different subclassifications for Groups of claims, it is believed that classification is not conclusive on the question of restriction. It is further noted that the Examiner has identified the claims of both Group II and Group III as being classified in class 369, subclass 47.2. The Applicants believe that the evaluation of the claims of Groups II and III in the present application will not require an additional search, and therefore, will not place an undue burden on the Examiner. It is believed, moreover, that evaluation of the claims of Group IV along with the claims of Groups I, II, and III would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to the Applicants in having to protect the additional subject matter recited by the claims of Group IV by filing a divisional application.

Furthermore, there have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and product claims in the same field of technology.

MPEP § 803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

Even if the Examiner considers the claims of Group II to be separate inventions from the claims of Groups I and III, the Applicants respectfully request the Examiner to consider claims 6, 7, 19, and 23 (Group II) together with claims 1-5 and 10-18 (Group I) and 8, 9, and 22 (Group III) considering the Examiner's classification of both Groups II and III in class 369, subclass 47.2 as discussed above.

### III. Conclusion

When considering that the method recited by the Group II claims is directed to a method

of linking data, the Group IV claims are directed to an apparatus linking data, and elected claims 1-5 and 10-18 are directed to a recording medium having a data identification area that indicates whether the data recorded in a sector is linking data, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 3/22/04

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